

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF TENNESSEE  
NASHVILLE DIVISION

KEITH A. HOWARD  
Petitioner,

v.

HENRY STEWARD, WARDEN  
Respondent.

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No. 3:12-0082
Judge Sharp

O R D E R

In accordance with the Memorandum contemporaneously entered, the Court finds merit in respondent's Motion to Dismiss (Docket Entry No.35). Accordingly, respondent's motion is GRANTED and this action is hereby DISMISSED without prejudice. Rule 8(a), Rules -- § 2254 Cases.

Should the petitioner file a timely notice of appeal from this order, such notice shall be treated as an application for a certificate of appealability, 28 U.S.C. § 2253(c), which will NOT issue because the petitioner is not yet able to make a substantial showing of the denial of a constitutional right.

It is so ORDERED.

Kevin H. Sharp

Kevin H. Sharp
United States District Judge